

REMARKS

By this amendment, claims 1-30 are pending, in which claims 8, 22 and 29 are currently amended. No new matter is introduced.

The Office Action mailed August 25, 2005 rejected claims 1-30 under 35 U.S.C. § 102 as anticipated by *Kelly et al.* (USPN 20010048670).

In support of the anticipation rejection, the Office Action refers to numerous interfaces and modules throughout the *Kelly et al.* system to satisfy the features of the claims. For example, the Office Action, on page 3, asserts that the claimed plurality of communication interfaces are disclosed by the return channel interfaces (FIG. 2) as well as the system interfaces of FIG. 5a. Additionally, the claimed modules are presumably disclosed in various components and devices associated with the Network Operations Center (NOC), as shown in FIG. 4. For a supposed disclosure of the claimed plurality of buffers, the Office Action cites to a discussion of the transceiver 109, the system interfaces of FIG. 5a, and the TTR buffers of the satellite gateway 413.

By contrast, independent claim 1 recites a “network **apparatus**” that comprises “a plurality of communication interfaces,” “a plurality of modules,” and “a plurality of buffers.” A network apparatus cannot be interpreted as a communication system, in the context of the claims. With the interpretation adopted by the Examiner, it is not possible that these claimed features can be comprised by an apparatus. This is made more evident in the rejection of dependent claim 2, whereby the Examiner refers to a variety of devices for the claimed modules – e.g., gateway 413 for the connection module, IRU 109a for the prioritization module, Hybrid Gateway 419 for the path selection module. Therefore, based on the Examiner's rationale, even assuming, *arguendo*, that the claimed features are resident with the disparate components of the *Kelly et al.* system, the claimed apparatus cannot be disclosed, as such features are not within any single component of the *Kelly et al.* system.

Likewise, independent claim 15 is drawn to a network **apparatus**.

Amended independent claims 8 and 22 recite “processing the messages to effect performance enhancing functions via **a plurality of modules of the endpoint**” and storing the received messages and messages that are generated by one of the plurality of modules in **a plurality of buffers of the endpoint**.” Amended independent claim 29 recites “memory **resident within an endpoint** for storing

information for providing performance enhancements of a communication network” and “a common header field the stores information known to **a plurality of modules of the endpoint.**”

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed in a prior art reference, based on the foregoing, it is clear that the anticipation rejection is untenable.

Therefore, the present application, as amended, overcomes the rejection of record and is in condition for allowance. Favorable consideration of this application is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (301) 601-7252 so that such issues may be resolved as expeditiously as possible. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

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